

PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

FOR OFFICIAL USE ONLY:	
SSD 201 <u>8</u> - <u>6</u>	
Acceptance Date:	<u>8/1/17</u>
Website Posting Date:	<u>8/4/17</u>
Determination Date:	<u>8/1/17</u>
Planning Commission Date:	<u>8/18/17</u>
Expiration Date:	<u>8/18/18</u>
Planner Assigned:	<u>JG</u>

Instructions: File all information requested under Part A for processing the Determination of Applicability (§8-27.1), including signature page. Fill out Parts A and B if you know, due to proximity of the shoreline, that your parcel will require a Certified Shoreline Survey. If you are proposing a permitted structure or subdivision within the shoreline setback area fill in Part C. For applications involving a variance, complete Part D.

Applicant Information	
Applicant:	Leontine LLC c/o Cogent Designs
Address:	P.O. Box 617 Kapaa, HI 96746
Phone:	808-652-0015
Email:	jon@cogentd.com
Applicant's Status: (Check one)	
<input type="checkbox"/> Owner of the Property	(Holder of at least 75% of the equitable and legal title)
<input type="checkbox"/> Lessee of the Property	Lessee must have an unexpired and recorded lease of five (5) years or more from the date of filing of this application. If not, Owner(s) must provide a Letter of Authorization.
<input checked="" type="checkbox"/> Authorized Agent	Attach Letter of Authorization
Transmittal Date:	21 July 2017

Project Information (attach additional sheets, if necessary)	
County Zoning District:	Open
Tax Map Key(s):	5-5-003:006
Land Area:	17,221sf
Nature of Development: (Description of proposed Structure of subdivision)	Replacement of existing and addition of new gates along Weke Rd. and beach facing property lines.

**NO PERMITS WILL BE ISSUED WITHOUT PLANNING COMMISSION ACCEPTANCE,
EXCEPT AS PROVIDED IN §8-27.8(c)(8)**

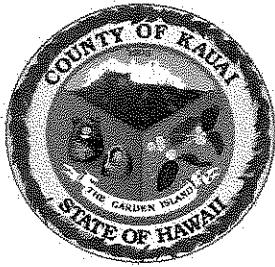
Part A

Shoreline Setback Determination of Applicability (§8-27.1)

Check all that apply, fill in applicable information. Any box checked must be accompanied by additional information, photos and/or documentation.

- ☒ Properties Abutting the Shoreline
☒ Project's approximate distance from shoreline: 165'
- ☐ Properties Not Abutting the Shoreline
☐ Project's approximate distance from shoreline: _____
- ☐ Additional Information:
☒ Closest distance of improvement(s) from Shoreline is approximately 165 ft.
☒ Number of parcels and type of improvements (roads, buildings, structures) between Shoreline and this parcel:

Waioli Beach Park lies between subject parcel and the Shoreline.



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Planner Assigned:	

- ☐ Topography (undulating, flat, slope, etc.) and ground elevation of subject parcel (Lowest and Highest elevations)

Subject parcel is relatively flat.

- ☐ Shoreline type (e.g. beach, dune, rocky, sandy with rocky outcropping, etc.)

Adjacent Shoreline is sandy beach.

- ☐ Artificially armored Shoreline

☐ If checked, what type of armoring (e.g. seawall, revetment, bulkhead): _____

☐ Is the armoring permitted/authorized? _____

☐ Date of authorization (attach copy of authorization letter): _____

- ☒ Is property in coastal floodplain (if checked, what zone)? "XS"

- ☐ Has this property been subject to coastal hazards in the past? (If checked, please describe)

If the proposed structure or subdivision is within the shoreline setback area then, please be aware that if the determination of a structure is approved, the Applicant shall agree in writing that the Applicant, its successors, and permitted assigns shall defend, indemnify, and hold the County of Kaua'i harmless from and against any and all loss, liability, claim or demand arising out of damages to said structures from any coastal natural hazards and coastal erosion, pursuant to §8-27.7(b)(2).

The requirements of the Subsection (b) shall run with the land and shall be set forth in a unilateral agreement recorded by the applicant with the Bureau of Conveyances or the Land Court, whichever is applicable, no later than thirty (30) days after the date of final shoreline approval of the structure under §8-27.8. A copy of the recorded unilateral agreement shall be filed with the Director and the County Engineer no later than forty-five (45) days after the date of the final shoreline determination and approval of the structure and the filing of such with the Director shall be a prerequisite to the issuance of any related building permit. §8-27.7(b)(6).

Applicant's Signature

Signature

Jm M. Ise

21 July 2017

Date

Applicability (to be completed by Planning Department)

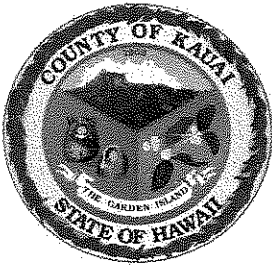


Setback Determination necessary. Requirements of Ordinance No. 979 apply, submit full application.

Planning Director or designee

8-1-17

Date



PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

If **Part A** has been deemed that a Determination will be necessary, the additional information will be required for submission of this application.

Part B

Exemption Determination

☐ A non-refundable processing fee of **one hundred dollars (\$100.00)** shall accompany a request for determination. (§8-27.8(e))

☐ **Exemption 1**

In cases where the proposed structure or subdivision satisfies the following four criteria:

(A) In cases where the proposed structure or subdivision is located outside of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) 'V' or 'VE' flood zones;

(B) The proposed structure or subdivision is located at an elevation which is thirty (30) feet above sea level or greater;

(C) The applicant can demonstrate to the satisfaction of the Planning Director that the property is clearly adjacent to a rocky shoreline and that it will not affect or be affected by coastal erosion or hazards; and

(D) The shoreline setback shall be sixty (60) feet from the certified shoreline which has been established not more than twelve (12) months from the date of the application for the exception under this section.

☒ **Exemption 2**

In cases where the applicant can demonstrate to the satisfaction of the Planning Director that the applicant's proposed structure or subdivision will not affect beach processes, impact public beach access, or be affected by or contribute to coastal erosion or hazards, excluding natural disasters. Factors to be considered shall include, but not be limited to, proximity to the shoreline, topography, properties between shoreline and applicant's property, elevation, and the history of coastal hazards in the area.

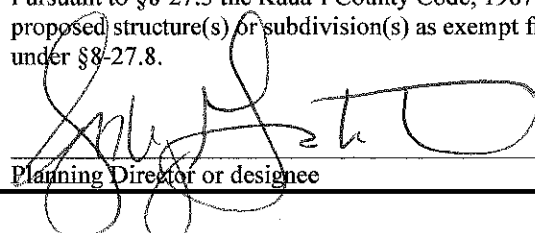
☐ **Exemption 3**

Those structures and uses found exempt in Table 3 (§8-27.7) (see pg. 5-6)

☐ Letter from the Department of Public Works stating that the proposed project does not constitute "Substantial Improvement," pursuant to §8-27.2

Exemption Determination (to be completed by Planning Department)

Pursuant to §8-27.3 the Kaua'i County Code, 1987 as amended, the Planning Department hereby certifies the proposed structure(s) or subdivision(s) as exempt from those shoreline setback determination required established under §8-27.8.


Planning Director or designee

8-1-17
Date



Google Earth



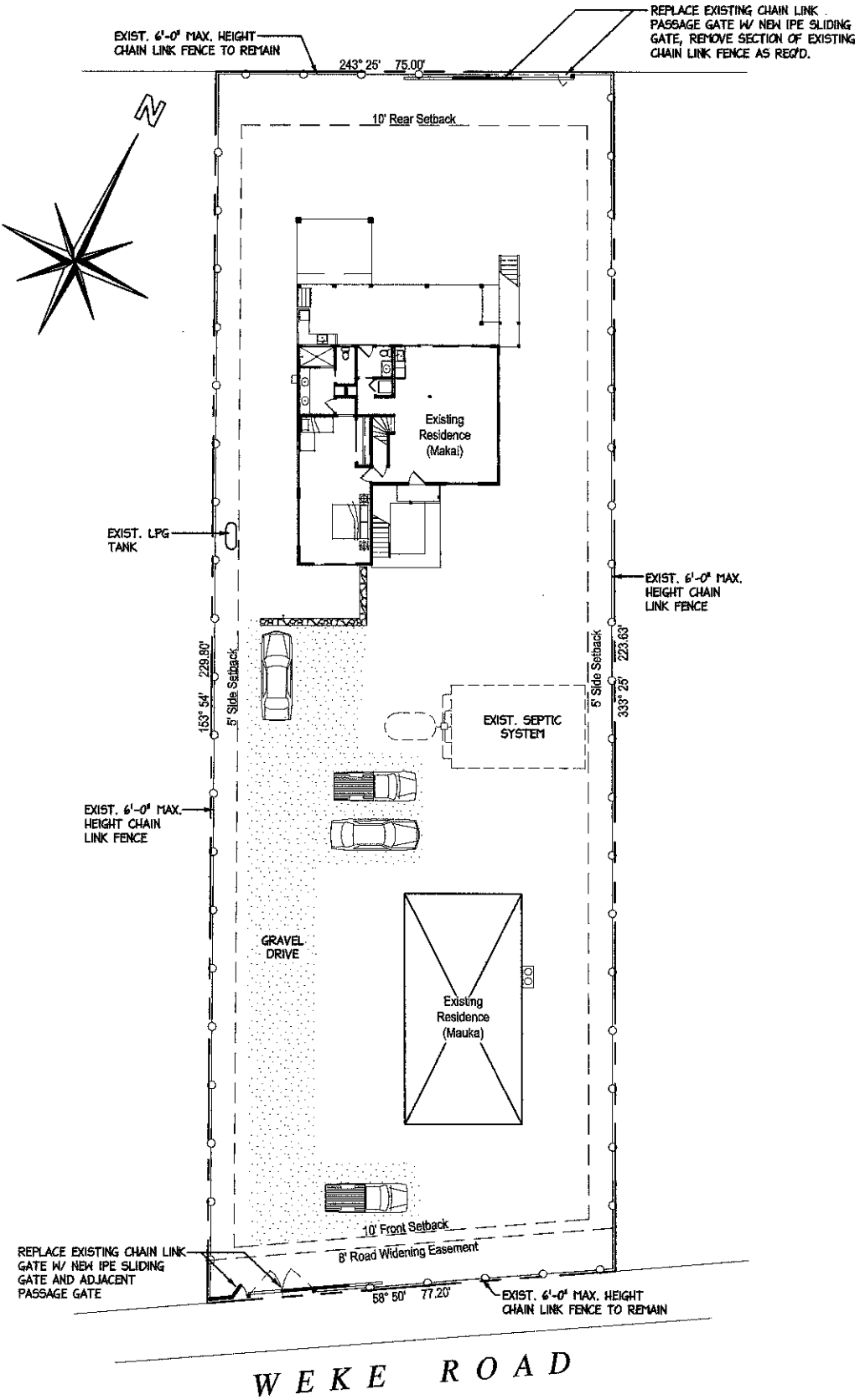
Google Earth

5380 Weke Rd.
Gate / Fence Repairs

SITE ADDRESS: 5380 Weke Road
Hanalei, Kauai, HI

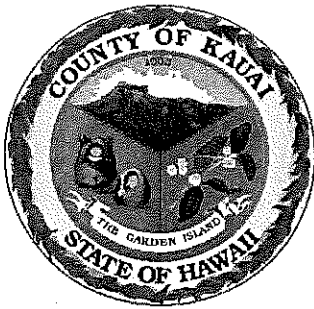
TMK #: 5-5-003:006

WAIOLI BEACH PARK



Plot Plan

1"=30'



PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

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Determination Date:	<u>8-1-17</u>
Planning Commission Date:	<u>NA</u>
Expiration Date:	<u>8-1-18</u>
Planner Assigned:	<u>JB</u>

Instructions: File all information requested under Part A for processing the Determination of Applicability (§8-27.1), including signature page. Fill out Parts A and B if you know that your parcel will require a Certified Shoreline Survey, due to the proximity to the shoreline. If you are proposing a permitted structure or subdivision within the shoreline setback area fill in Part C. For applications involving a variance, complete Part D.

Applicant Information	
Applicant: <u>Ken Ishii</u>	
Mailing Address: <u>6651 Kipapa Rd</u> <u>Kapaa, HI 96746</u>	Phone: <u>634-6596</u> Email: <u>KENCUP@GMAIL.COM</u>
Applicant's Status: (Check one)	
<input checked="" type="checkbox"/> Owner of the Property	(Holder of at least 75% of the equitable and legal title)
<input type="checkbox"/> Lessee of the Property	Lessee must have an unexpired and recorded lease of five (5) years or more from the date of filing of this application. If not, Owner(s) must provide a Letter of Authorization.
<input type="checkbox"/> Authorized Agent	Attach Letter of Authorization
Transmittal Date: _____	

Project Information (attach additional sheets, if necessary)	
County Zoning District: <u>CG</u>	Tax Map Key(s): <u>(4)4-5-011:014</u>
	Land Area: <u>8,700 SF</u>
Nature of Development: (Description of proposed structure or subdivision)	<u>Tenant improvement approx 697 SF for retailing of food takeout</u>

**NO PERMITS WILL BE ISSUED WITHOUT PLANNING COMMISSION ACCEPTANCE,
EXCEPT AS PROVIDED IN §8-27.8(c)(8)**

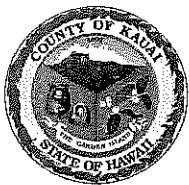
Part A

Shoreline Setback Determination of Applicability (§8-27.1)

Check all that apply, fill in applicable information. Any box checked must be accompanied by additional information, photos and/or documentation.

- Property is Abutting the Shoreline
☐ Proposed project's approximate distance from shoreline (based on aerial map): _____ ft.
- Property is Not Abutting the Shoreline
☒ Proposed project's approximate distance from shoreline (based on aerial map): 260' ft.
- Additional Information:
☒ Shoreline Change (Erosion/Accretion) Rate: -1.0 ft./year
(Information available here: www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html)
☐ Number and description of parcels (including roads, buildings, structures) between Shoreline and this parcel:

1 parcel and street



PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

- ☒ Topography (undulating, flat, slope, etc.) and ground elevation of subject parcel (Lowest and Highest elevations)

flat topography + 9.48' max, + 8.35 min

- ☒ Shoreline type (e.g. beach, dune, rocky, sandy with rocky outcropping, etc.)

composed of carbonate sand, boulder groins, hardened shoreline

- ☐ Artificially armored Shoreline

☐ If checked, what type of armoring (e.g. seawall, revetment, bulkhead): _____

☐ Is the armoring permitted/authorized? _____

☐ Date of authorization (attach copy of authorization letter): _____

- ☐ Is property in coastal floodplain (if checked, what zone)? _____

- ☐ Has this property been subject to coastal hazards (i.e. flooding, erosion, tsunami, etc.) in the past?

PLEASE NOTE:

Any misrepresentation of information in this shoreline setback application will result in revocation of this determination and may result in fines and criminal prosecution.

Applicant's Signature

Signature

Date

7/31/17

Applicability (to be completed by Planning Department)

- ☒ Setback Determination necessary. Requirements of Ordinance No. 979 are applicable.

- ☐ Setback Determination is NOT necessary. Requirements of Ordinance No. 979 are not applicable.

Planning Director or designee

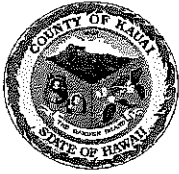
Date

8-1-17

If **Part A** has been deemed that a Determination will be necessary, the additional information will be required for submission of this application.

Part B

- ☒ A non-refundable processing fee of **one hundred dollars (\$100.00)** shall accompany a request for determination. (§8-27.8(e))
- ☐ An aerial map/image (ex. Google Maps or Google Earth) with a line drawn from the shoreline/vegetation line (approximate shoreline) to the proposed project and the calculated distance in feet.
- ☐ A detailed Plot Plan to scale with all existing and proposed structures including driveways, visible lot coverage, setbacks and measurement details, fences, gates, and walls, etc.
- ☐ Building Permit Number (If building plans submitted)



PLANNING DEPARTMENT SHORELINE SETBACK DETERMINATION

Exemption Determination

☐ **Exemption 1**

In cases where the proposed structure or subdivision satisfies the following four criteria:

(A) In cases where the proposed structure or subdivision is located outside of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) 'V' or 'VE' flood zones;

(B) The proposed structure or subdivision is located at an elevation which is thirty (30) feet above sea level or greater;

(C) The applicant can demonstrate to the satisfaction of the Planning Director that the property is clearly adjacent to a rocky shoreline and that it will not affect or be affected by coastal erosion or hazards; and

(D) The shoreline setback shall be sixty (60) feet from the certified shoreline which has been established not more than twelve (12) months from the date of the application for the exception under this section.

☐ **Exemption 2**

In cases where the applicant can demonstrate to the satisfaction of the Planning Director that the applicant's proposed structure or subdivision will not affect beach processes, impact public beach access, or be affected by or contribute to coastal erosion or hazards, excluding natural disasters. Factors to be considered shall include, but not be limited to, proximity to the shoreline, topography, properties between shoreline and applicant's property, elevation, and the history of coastal hazards in the area.

☒ **Exemption 3**

Pursuant to §8-27.7, those structures and uses found exempt in Table 3 (see pg. 7) including repairs and renovations to a lawfully existing structure, including nonconforming structures, provided that:

(A) The repairs DO NOT enlarge, add to or expand the structure; increase the size or degree of non-conformity; or intensify the use of the structure or its impact on coastal processes;

(B) The repairs DO NOT constitute a substantial improvement of the structure; and

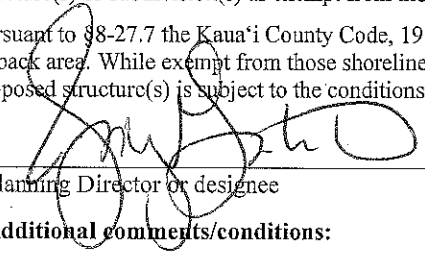
(C) The repairs are permitted by the Comprehensive Zoning Ordinance, Development Plans, building code, floodplain management regulations, special management area requirements under HRS Chapter 205A and any other applicable rule or law.

☒ Letter from the Department of Public Works stating that the proposed project does **NOT** constitute "Substantial Improvement," pursuant to §8-27.2 (If applicable, will require valuation of project).

Exemption Determination (to be completed by Planning Department)

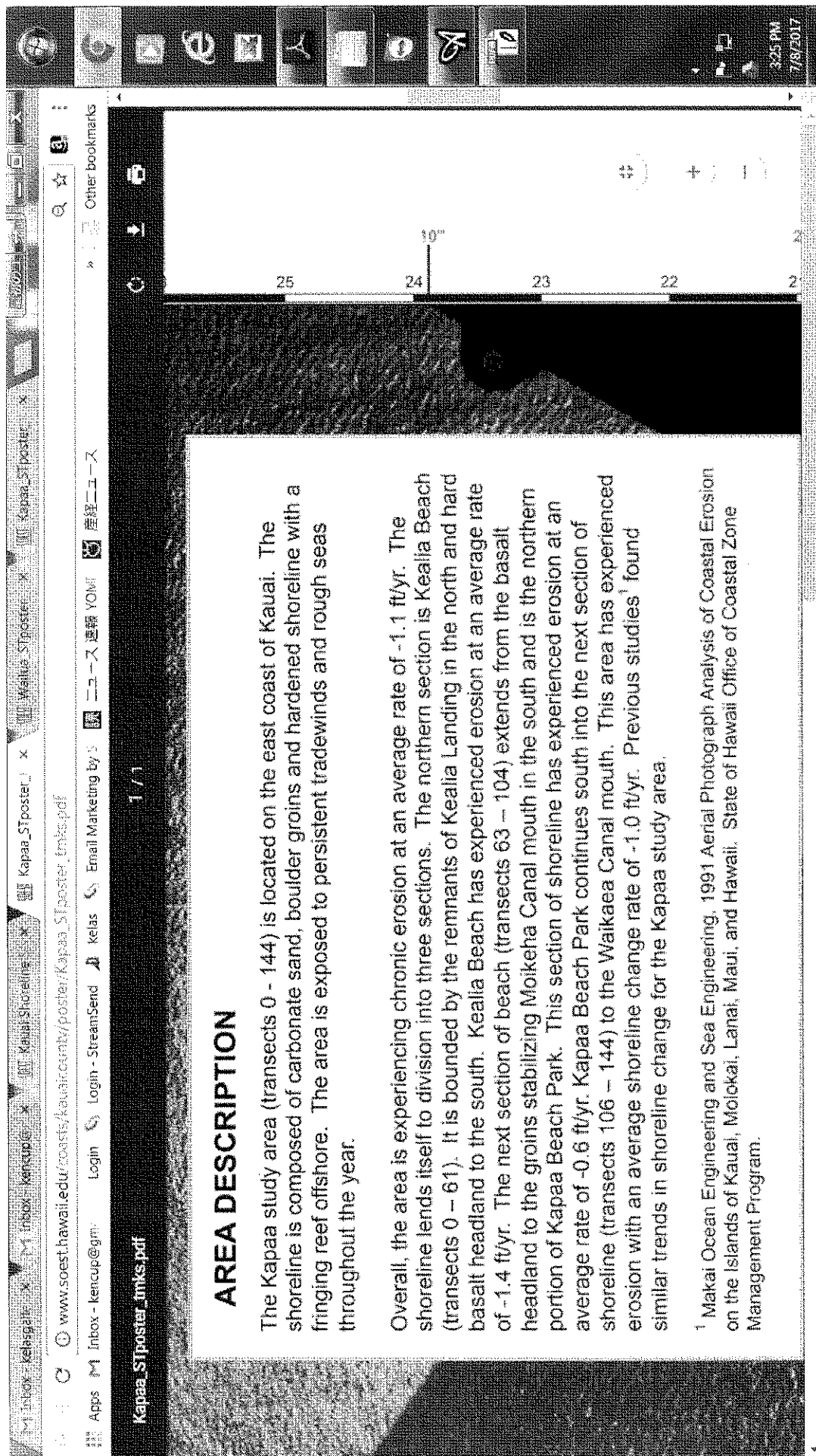
☒ Pursuant to §8-27.3 the Kaua'i County Code, 1987 as amended, the Planning Department hereby certifies the proposed structure(s) or subdivision(s) as exempt from those shoreline setback determination requirements established under §8-27.8.

☐ Pursuant to §8-27.7 the Kaua'i County Code, 1987 as amended, the proposed structure(s) is permitted within the shoreline setback area. While exempt from those shoreline setback determination requirements established under §8-27.8, the proposed structure(s) is subject to the conditions of §8-27.7(b). (See pg. 8)


Planning Director or designee

8-1-17
Date

☐ Additional comments/conditions:

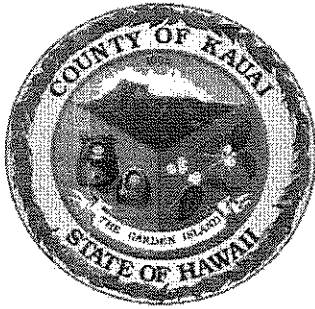


AREA DESCRIPTION

The Kapaa study area (transects 0 - 144) is located on the east coast of Kauai. The shoreline is composed of carbonate sand, boulder groins and hardened shoreline with a fringing reef offshore. The area is exposed to persistent tradewinds and rough seas throughout the year.

Overall, the area is experiencing chronic erosion at an average rate of -1.1 ft/yr. The shoreline lends itself to division into three sections. The northern section is Kealia Beach (transects 0 - 61). It is bounded by the remnants of Kealia Landing in the north and hard basalt headland to the south. Kealia Beach has experienced erosion at an average rate of -1.4 ft/yr. The next section of beach (transects 63 - 104) extends from the basalt headland to the groins stabilizing Moikeha Canal mouth in the south and is the northern portion of Kapaa Beach Park. This section of shoreline has experienced erosion at an average rate of -0.6 ft/yr. Kapaa Beach Park continues south into the next section of shoreline (transects 106 - 144) to the Waikaea Canal mouth. This area has experienced erosion with an average shoreline change rate of -1.0 ft/yr. Previous studies¹ found similar trends in shoreline change for the Kapaa study area.

¹ Makai Ocean Engineering and Sea Engineering, 1991 Aerial Photograph Analysis of Coastal Erosion on the Islands of Kauai, Molokai, Lanai, Maui, and Hawaii. State of Hawaii Office of Coastal Zone Management Program.



PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

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Website Posting Date:	8/4/17
Determination Date:	8/18/17
Planning Commission Date:	8/18/17
Expiration Date:	8/18/18
Planner Assigned:	JL

Instructions: File all information requested under Part A for processing the Determination of Applicability (§8-27.1), including signature page. Fill out Parts A and B if you know that your parcel will require a Certified Shoreline Survey, due to the proximity to the shoreline. If you are proposing a permitted structure or subdivision within the shoreline setback area fill in Part C. For applications involving a variance, complete Part D.

Applicant Information	
Applicant:	Edward Bittner
Mailing Address:	P.O. Box 456 Anahola, HI 96703
Phone:	808-822-4053
Email:	ed@bittnerconstruction.com
Applicant's Status: (Check one)	
<input type="checkbox"/> Owner of the Property	(Holder of at least 75% of the equitable and legal title)
<input type="checkbox"/> Lessee of the Property	Lessee must have an unexpired and recorded lease of five (5) years or more from the date of filing of this application. If not, Owner(s) must provide a Letter of Authorization.
<input checked="" type="checkbox"/> Authorized Agent	Attach Letter of Authorization
Transmittal Date:	3-20-2016

Project Information (attach additional sheets, if necessary)	
County Zoning District:	Hanalei
Tax Map Key(s):	5-5-10:63
Land Area:	7984 sf
Nature of Development: (Description of proposed structure or subdivision)	Fence

**NO PERMITS WILL BE ISSUED WITHOUT PLANNING COMMISSION ACCEPTANCE,
EXCEPT AS PROVIDED IN §8-27.8(c)(8)**

Part A

Shoreline Setback Determination of Applicability (§8-27.1)

Check all that apply, fill in applicable information. Any box checked must be accompanied by additional information, photos and/or documentation.

- Property is Abutting the Shoreline
☐ Proposed project's approximate distance from shoreline (based on aerial map): _____ ft.
- Property is Not Abutting the Shoreline
☒ Proposed project's approximate distance from shoreline (based on aerial map): 530 ft. _____ ft.
- Additional Information:
☒ Shoreline Change (Erosion/Accretion) Rate: accretion of less than 1 ft./year
(Information available here: www.soest.hawaii.edu/coasts/kauaicontry/KCounty.html)
☒ Number and description of parcels (including roads, buildings, structures) between Shoreline and this parcel:

5120 Weke Road (Pavilion Park)
Weke Road
5111 Weke Road



PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

- ☒ Topography (undulating, flat, slope, etc.) and ground elevation of subject parcel (Lowest and Highest elevations)

Flat

- ☒ Shoreline type (e.g. beach, dune, rocky, sandy with rocky outcropping, etc.)

Beach

- ☐ Artificially armored Shoreline

☐ If checked, what type of armoring (e.g. seawall, revetment, bulkhead): _____

☐ Is the armoring permitted/authorized? _____

☐ Date of authorization (attach copy of authorization letter): _____

- ☒ Is property in coastal floodplain (if checked, what zone)? AE

- ☐ Has this property been subject to coastal hazards (i.e. flooding, erosion, tsunami, etc.) in the past?

PLEASE NOTE:

Any misrepresentation of information in this shoreline setback application will result in revocation of this determination and may result in fines and criminal prosecution.

Applicant's Signature

3-24-17

Signature

Date

Applicability (to be completed by Planning Department)



Setback Determination necessary. Requirements of Ordinance No. 979 are applicable.



Setback Determination is NOT necessary. Requirements of Ordinance No. 979 are not applicable.

Planning Director or designee

8-1-17

Date

If **Part A** has been deemed that a Determination will be necessary, the additional information will be required for submission of this application.

Part B

- ☐ A non-refundable processing fee of **one hundred dollars (\$100.00)** shall accompany a request for determination. (§8-27.8(e))
- ☐ An aerial map/image (ex. Google Maps or Google Earth) with a line drawn from the shoreline/vegetation line (approximate shoreline) to the proposed project and the calculated distance in feet.
- ☐ A detailed Plot Plan **to scale** with all existing and proposed structures including driveways, visible lot coverage, setbacks and measurement details, fences, gates, and walls, etc.
- ☐ Building Permit Number (If building plans submitted)



PLANNING DEPARTMENT SHORELINE SETBACK DETERMINATION

Exemption Determination

☐

Exemption 1

In cases where the proposed structure or subdivision satisfies the following four criteria:

(A) In cases where the proposed structure or subdivision is located outside of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) 'V' or 'VE' flood zones;

(B) The proposed structure or subdivision is located at an elevation which is thirty (30) feet above sea level or greater;

(C) The applicant can demonstrate to the satisfaction of the Planning Director that the property is clearly adjacent to a rocky shoreline and that it will not affect or be affected by coastal erosion or hazards; and

(D) The shoreline setback shall be sixty (60) feet from the certified shoreline which has been established not more than twelve (12) months from the date of the application for the exception under this section.

☐

Exemption 2

In cases where the applicant can demonstrate to the satisfaction of the Planning Director that the applicant's proposed structure or subdivision will not affect beach processes, impact public beach access, or be affected by or contribute to coastal erosion or hazards, excluding natural disasters. Factors to be considered shall include, but not be limited to, proximity to the shoreline, topography, properties between shoreline and applicant's property, elevation, and the history of coastal hazards in the area.

☒

Exemption 3

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(A) The repairs DO NOT enlarge, add to or expand the structure; increase the size or degree of non-conformity; or intensify the use of the structure or its impact on coastal processes;

(B) The repairs DO NOT constitute a substantial improvement of the structure; and

(C) The repairs are permitted by the Comprehensive Zoning Ordinance, Development Plans, building code, floodplain management regulations, special management area requirements under HRS Chapter 205A and any other applicable rule or law.

☐

Letter from the Department of Public Works stating that the proposed project does **NOT** constitute "Substantial Improvement," pursuant to §8-27.2 (If applicable, will require valuation of project).

Exemption Determination (to be completed by Planning Department)

☒

Pursuant to §8-27.3 the Kaua'i County Code, 1987 as amended, the Planning Department hereby certifies the proposed structure(s) or subdivision(s) as exempt from those shoreline setback determination requirements established under §8-27.8.

☐

Pursuant to §8-27.7 the Kaua'i County Code, 1987 as amended, the proposed structure(s) is permitted within the shoreline setback area. While exempt from those shoreline setback determination requirements established under §8-27.8, the proposed structure(s) is subject to the conditions of §8-27.7(b). (See pg. 8)

Planning Director or designee

Date

☐

Additional comments/conditions:



Google Earth



Peter Courture Trust
PO Box 3692
Los Altos CA 94024

20 March 2016

Re; 5108 Opelu, Hanalei
TMK #4-5-5-010-063

Dear Federal, State, County, and City

Ed Bittner and Bittner Construction are authorized to file for and pull all necessary permits and take all actions reasonably necessary in that regard with respect to 5108 Opelu, Hanalei, TMK #4-5-5-010-063.

Best regards

A handwritten signature in cursive script, appearing to read "Peter Courture".

Peter Courture, Trustee

BITTNER CONSTRUCTION LLC

GENERAL CONTRACTING LIC. # ABC 24834

EDWARD BITTNER

PHONE: (808) 822-4053E-MAIL: ED@BITTNERCONSTRUCTION.COM

CELLULAR: 651-3012

P.O. Box 456, Anahola, HI 96703

Fax: 822-9631

July 20, 2017

PROPOSAL

To: Peter Courture
5108 Opelu Road
Hanalei, HI 96714

For: Fence Relocation,
New sidewalk, and
after the fact permit
For existing sidewalk
5108 Opelu Road
Hanalei, HI 96714

SCOPE OF WORK: all labor and materials to install and relocate wooden fencing, double gate, relocate loose stack rocks as per plan entitled "Fence Remediation & Incidental Grading Plan, Lot A010-29, Hanalei Palms Subdivision, Phase II, Hanalei, Halelea'a, Kaua'i, Hawai'i, TMK (4) 5-5-010:063" by Lucas Breckenridge & Associates, Inc. dated 5-15-2017.

Including:

The work being proposed includes (1) an as-built 6 foot 1"x 6" cedar perimeter fence along the property boundaries facing Pilikoa Street and Opelu Street, fifty feet (50') of the fence to remain as built and sixty feet (60') to be modified at the corner of the property to meet setback requirements;

(2) an as built sidewalk, 68' x 3', beginning from the existing sidewalk coming in the property from Pilikoa Street, running alongside the existing residence facing Pilikoa Street, then cornering and running alongside the existing residence facing Opelu Street and ending at the existing driveway; (3) a proposed sidewalk 27' x 3' to run from the existing sidewalk to the existing lanai behind the house; and (4) a proposed sidewalk 24' x 3' to run from existing lanai by existing elevator to the existing lanai by the existing boat garage.

Does not include:

- Any additional repairs or landscaping

Subtotal	\$ 5,920.80
State tax	<u>246.66</u>
Total	<u>\$ 6,167.46</u>

Payment schedule to be:

Upon commencement	00.00
Upon completion	\$6,167.46

Payments will be due on date of invoice, net 10 days. A finance charge of one and one half percent (1 ½%) per month (annual percentage rate of 18%) will be billed on all accounts that are past due and he/she will be responsible for all court and attorney fees.

Notice: The percentage of construction of the above mentioned residence to be subcontracted is approximately 0 %. Below is a list of the subcontractors' names and license numbers.

RIGHT TO RESOLVE ALLEGED CONSTRUCTION DEFECTS: CHAPTER 672E OF THE HAWAII REVISED STATUTES CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY FILE A LAWSUIT OR OTHER ACTION FOR DEFECTIVE CONSTRUCTION AGAINST THE CONTRACTOR WHO DESIGNED, REPAIRED OR CONSTRUCTED YOUR HOME OR FACILITY. NINETY DAYS BEFORE YOU FILE YOUR LAWSUIT OR OTHER ACTION, YOU MUST SERVE ON THE CONTRACTOR A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE. UNDER THE LAW, THE CONTRACTOR HAS THE OPPORTUNITY TO MAKE AN OFFER AND/OR PAY FOR THE DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY A CONTRACTOR. THERE ARE

BITTNER CONSTRUCTION LLC

GENERAL CONTRACTING LIC. # ABC 24834

EDWARD BITTNER

PHONE: (808) 822-4053

E-MAIL: ED@BITTNERCONSTRUCTION.COM

CELLULAR: 651-3012

P.O. Box 456, Anahola, HI 96703

Fax: 822-9631

STRICT DEADLINES AND PROCEDURES UNDER THE LAW, AND FAILURE TO FOLLOW THEM MAY NEGATIVELY AFFECT YOUR ABILITY TO FILE A LAWSUIT OR OTHER ACTION.

PEPPER CONSTRUCTION

[Signature]

Owner

Date

Contractor

Date

This proposal void if not accepted within 30 days. This proposal supersedes any previous proposal. Where different, this proposal supersedes plans.

Addendum A

DISCLOSURE OF LIEN RIGHTS

Access this form via website at: www.hawaii.gov/dcca/areas/pvl

HOMEOWNERS TAKE NOTICE

Any person who furnishes labor (prime or subcontractor) or materials (material supplier) for your home improvement or renovation project and is not paid can file a claim (lien) in Circuit Court against your property under Hawaii Revised Statutes ("HRS") chapter 507. This is true even if you have paid the contract price in full to the prime contractor and the contractor fails to pay his subcontractors or material suppliers.

In order to obtain a lien against your property, a contractor, subcontractor, or material supplier must go to court and show that goods or services for the project have been supplied but not been paid for. You will be notified to appear and defend against these claims in court. If a lien is obtained, you are entitled to prove in a later court proceeding that you paid your prime contractor in full. The court could then enter judgment in your favor against the prime contractor and direct payment out of the contractor's recovery fund up to the amount allowed by law, if the prime contractor was properly licensed at the time you entered into the contract with the prime contractor.

WHAT YOU CAN DO

Here is what you can do to help prevent problems:

- (1) Make certain that the contractor is licensed. Call 587-3295 to verify licensure.
- (2) On bigger jobs ask the contractor to explain to you about the possibility of providing a **PERFORMANCE AND PAYMENT BOND** which will guarantee completion of the project and payment of all liens. This Bond is usually provided by surety companies or material supply houses to qualified contractors. It may cost you approximately 5% of the project cost.
- (3) **YOU SHOULD NOT MAKE ANY ORAL AGREEMENTS.** Make sure everything is put in writing, including but not limited to the price, what work is to be done, any specific exclusions or restrictions, and the grade and brand of materials to be used, the length of the project, etc. See HRS s444-25.5 and the rules of the Contractors License Board. If you later agree to make any changes in the original specifications, **THESE CHANGES SHOULD BE IN WRITING AS WELL.**
- (4) **TAKE TIME TO STUDY THE AGREEMENT.** Do not let a contractor or salesman hurry you into signing a contract; especially when you feel pressured by emergencies.

(5) **REMEMBER, A CONTRACT IS A LEGAL, BINDING DOCUMENT.** Make certain you understand the contract. If not, spend a few extra dollars to have an attorney explain it to you.

(6) **OBTAIN A LIEN RELEASE FROM SUBCONTRACTORS.** A mechanic's lien could be placed on your home by a subcontractor if the general contractor fails to pay his bills--**EVEN THOUGH YOU HAVE PAID FOR THE WORK.** The same thing holds true **FOR SUPPLIERS OF CONSTRUCTION MATERIALS INCORPORATED INTO YOUR JOB ... GET A LIEN RELEASE!** Contractors could provide you with a lien release form. This form will essentially state that you have paid or have entered into an agreement to pay the subcontractor or supplier for their work, and that the subcontractor or supplier therefore relinquishes their lien rights.

(7) **DO NOT APPROVE PLANS OR BLUEPRINTS** unless you understand them.

(8) **PLEASE BE SURE YOUR CHECKS** are made out to the **CONTRACTOR, NOT TO A SALESMAN.**

(9) Make sure and publish a "**NOTICE OF COMPLETION**" in the newspaper as soon as the work is done. No lien may be claimed 46 days after the notice requirement (among other things) is completed in accordance with HRS s507-43.

(10) Discuss with your contractor the possibility of withholding a portion of payment until the 45-day period for filing liens has expired. The amount withheld should be sufficient to cover all claims which might be filed. You and your contractor must agree on the amount.

(11) If you have any questions about lien rights or other contract matters, **DO NOT SIGN** this or any contract. Review HRS chapter 507 and or contact an attorney first.

This form has been approved by the Contractors License Board; however, the Board suggests that a person become familiar with the laws and rules governing contractor's and mechanic's liens prior to entering into a contract with a contractor for new construction or improvements.

I (we) have discussed with the contractor the lien rights of those who will be supplying labor or materials to my (our) project as well as steps I (we) can take to reduce our lien liability. I (we) have read and understand this DISCLOSURE OF LIEN RIGHTS.

DATED this _____ day of _____, 20_____.

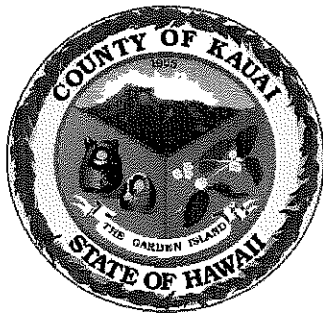
CONTRACTOR

OWNER

WITNESS

OWNER

PLANS TOO LARGE TO SCAN
ON FILE AT PLANNING DEPARTMENT UPON
REQUEST



PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

17 JUL 31 A9:27

RECEIVED

FOR OFFICIAL USE ONLY:	
201 <u>8</u>	
SSD <u>2018</u> - <u>9</u>	
Acceptance Date:	<u>8-1-17</u>
Website Posting Date:	<u>8-4-17</u>
Determination Date:	<u>8-1-17</u>
Planning Commission Date:	<u>8-8-17</u>
Expiration Date:	<u>8-8-18</u>
Planner Assigned:	<u>JC</u>

Instructions: File all information requested under Part A for processing the Determination of Applicability (§8-27.1), including signature page. Fill out Parts A and B if you know that your parcel will require a Certified Shoreline Survey, due to the proximity to the shoreline. If you are proposing a permitted structure or subdivision within the shoreline setback area fill in Part C. For applications involving a variance, complete Part D.

Applicant Information	
Applicant:	Association of Beachhouse Owners of Kiahuna Plantation
Mailing Address:	2253 Po'ipū Road Kōloa, HI 96756
Phone:	808.742.3522
Email:	Chris.gampon@outrigger.com
Applicant's Status: (Check one)	
<input type="checkbox"/> Owner of the Property	(Holder of at least 75% of the equitable and legal title)
<input checked="" type="checkbox"/> Lessee of the Property	Lessee must have an unexpired and recorded lease of five (5) years or more from the date of filing of this application. If not, Owner(s) must provide a Letter of Authorization.
<input type="checkbox"/> Authorized Agent	Attach Letter of Authorization
Transmittal Date: _____	

Project Information (attach additional sheets, if necessary)	
County Zoning District:	Tax Map Key(s): 428017009
	Land Area: _____
Nature of Development: (Description of proposed structure or subdivision)	Post citation remedial work to restore pre-existing cement path and shower. (see attachments)

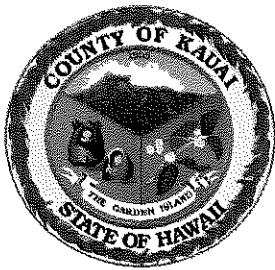
**NO PERMITS WILL BE ISSUED WITHOUT PLANNING COMMISSION ACCEPTANCE,
EXCEPT AS PROVIDED IN §8-27.8(c)(8)**

Part A

Shoreline Setback Determination of Applicability (§8-27.1)

Check all that apply, fill in applicable information. Any box checked must be accompanied by additional information, photos and/or documentation.

- Property is Abutting the Shoreline
☒ Proposed project's approximate distance from shoreline (based on aerial map): 30ft
- Property is Not Abutting the Shoreline
☐ Proposed project's approximate distance from shoreline (based on aerial map): _____ ft.
- Additional Information:
☒ Shoreline Change (Erosion/Accretion) Rate: 1.0 ft./year (high/all transects)
(Information available here: www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html)



PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

- ☐ Number and description of parcels (including roads, buildings, structures) between Shoreline and this parcel:

This is a shoreline property. There are no roads, buildings, or structures between the shoreline and this parcel.

- ☐ Topography (undulating, flat, slope, etc.) and ground elevation of subject parcel (Lowest and Highest elevations)

The area is on a manicured lawn, generally level with a slope going from a high point at the shoreline (approx. 10.1') to a low point mid-property (approx. 3.0')

- ☐ Shoreline type (e.g. beach, dune, rocky, sandy with rocky outcropping, etc.)

Sandy Beach

- ☐ Artificially armored Shoreline

☐ If checked, what type of armoring (e.g. seawall, revetment, bulkhead): _____

☐ Is the armoring permitted/authorized? _____

☐ Date of authorization (attach copy of authorization letter): _____

- ☒ Is property in coastal floodplain (if checked, what zone)? VE (EL15)

- ☐ Has this property been subject to coastal hazards (i.e. flooding, erosion, tsunami, etc.) in the past?

Yes. Property is subject to coastal erosion.

PLEASE NOTE:

Any misrepresentation of information in this shoreline setback application will result in revocation of this determination and may result in fines and criminal prosecution.

Applicant's Signature

06/26/2017

Signature

Date

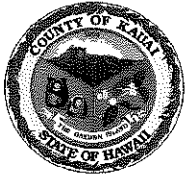
Applicability (to be completed by Planning Department)

- ☒ Setback Determination necessary. Requirements of Ordinance No. 979 are applicable.

- ☐ Setback Determination is NOT necessary. Requirements of Ordinance No. 979 are not applicable.

Planning Director or designee

8-1-17
Date



PLANNING DEPARTMENT SHORELINE SETBACK DETERMINATION

If **Part A** has been deemed that a Determination will be necessary, the additional information will be required for submission of this application.

Part B

- ☐ A non-refundable processing fee of **one hundred dollars (\$100.00)** shall accompany a request for determination. (§8-27.8(e))
- ☐ An aerial map/image (ex. Google Maps or Google Earth) with a line drawn from the shoreline/vegetation line (approximate shoreline) to the proposed project and the calculated distance in feet.
- ☐ A detailed Plot Plan **to scale** with all existing and proposed structures including driveways, visible lot coverage, setbacks and measurement details, fences, gates, and walls, etc.
- ☐ Building Permit Number (If building plans submitted)

Exemption Determination

☐ **Exemption 1**

In cases where the proposed structure or subdivision satisfies the following four criteria:

(A) In cases where the proposed structure or subdivision is located outside of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) 'V' or 'VE' flood zones;

(B) The proposed structure or subdivision is located at an elevation which is thirty (30) feet above sea level or greater;

(C) The applicant can demonstrate to the satisfaction of the Planning Director that the property is clearly adjacent to a rocky shoreline and that it will not affect or be affected by coastal erosion or hazards; and

(D) The shoreline setback shall be sixty (60) feet from the certified shoreline which has been established not more than twelve (12) months from the date of the application for the exception under this section.

☒ **Exemption 2**

In cases where the applicant can demonstrate to the satisfaction of the Planning Director that the applicant's proposed structure or subdivision will not affect beach processes, impact public beach access, or be affected by or contribute to coastal erosion or hazards, excluding natural disasters. Factors to be considered shall include, but not be limited to, proximity to the shoreline, topography, properties between shoreline and applicant's property, elevation, and the history of coastal hazards in the area.

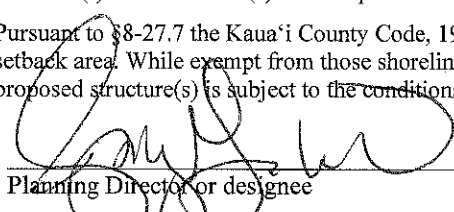
☐ **Exemption 3**

Those structures and uses found exempt in Table 3 (§8-27.7) including repairs and renovations that **DO NOT** enlarge or expand a nonconforming structure. (see pg. 7)

- ☐ Letter from the Department of Public Works stating that the proposed project does **not** constitute "Substantial Improvement," pursuant to §8-27.2 (If applicable, will require valuation of project)

Exemption Determination (to be completed by Planning Department)

- ☒ Pursuant to §8-27.3 the Kaua'i County Code, 1987 as amended, the Planning Department hereby certifies the proposed structure(s) or subdivision(s) as exempt from those shoreline setback determination requirements established under §8-27.8.
- ☒ Pursuant to §8-27.7 the Kaua'i County Code, 1987 as amended, the proposed structure(s) is permitted within the shoreline setback area. While exempt from those shoreline setback determination requirements established under §8-27.8, the proposed structure(s) is subject to the conditions of §8-27.7(b). (See pg. 8)

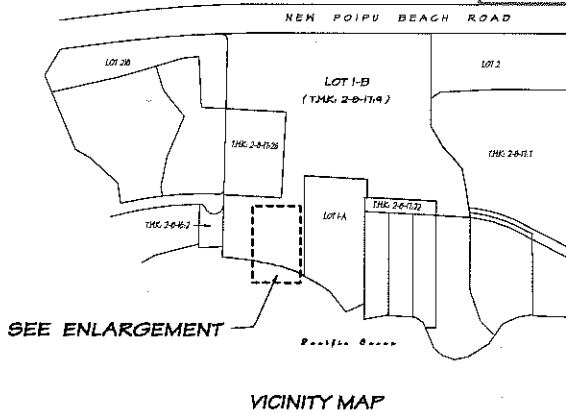

Planning Director or designee

8.1.17
Date

☒ **Additional comments/conditions:**

No irrigated landscaping within 40' of shoreline.

PRE-EXISTING CONDITIONS



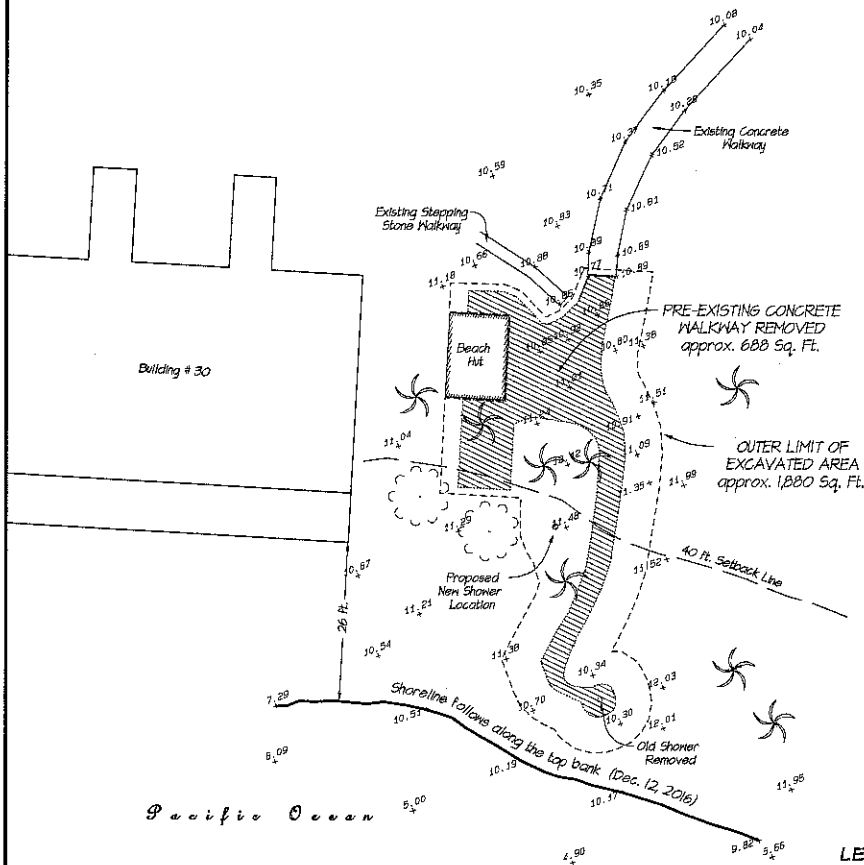
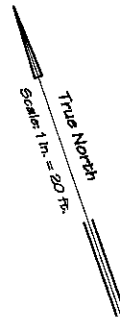
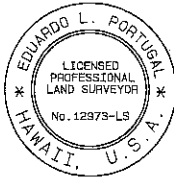
PLOT PLAN BEACH SHOWER RELOCATION Affecting Lot 1-B Land Court Consolidation 125, Map 1 Situated At Koloa, Kauai, Hawaii

Tax Map Key: (4) 2-8-17:9
Property Address: 2253 Poiipu Rd.
Prepared for: Outrigger Kiahuna Plantation Resort

THIS WORK WAS PREPARED
BY ME OR UNDER MY SUPERVISION

[Signature]

Licensed Professional Land Surveyor
Certificate Number 12973-LS



ENLARGEMENT

LEGEND

Dotted Line with Hatch = Pre-Existing Concrete Walkway Removed

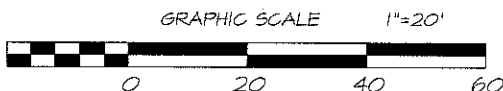
Dashed Line = Outer Limits of Excavation Performed



Heliotrope Tree (2' dm.)



Coconut Tree (1' dm.)



NOTE:

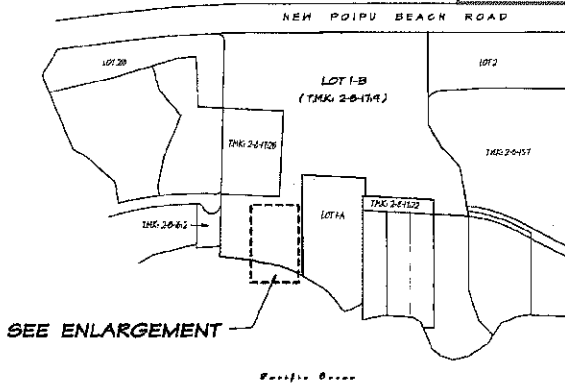
Elevations are based from RM 105, "x" on sidewalk on Hoonani / Kapili Road, EL. = 9.45 MSL

TMK: (4) 2-8-17:9
FB: Poiipu -20-
JOB: PS-16-083

Portugal Surveying, LLC
1840 Leileiona St.
Lihue, Kauai, Hawaii

March 3, 2017
11" x 17"

PROPOSED CONDITIONS



PLOT PLAN BEACH SHOWER RELOCATION Affecting Lot 1-B Land Court Consolidation 125, Map 1 Situated At Koloa, Kauai, Hawaii

Tax Map Key: (4) 2-B-17:9
Property Address: 2253 Poipu Rd.
Prepared for: Outrigger Kiahuna Plantation Resort

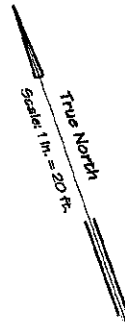
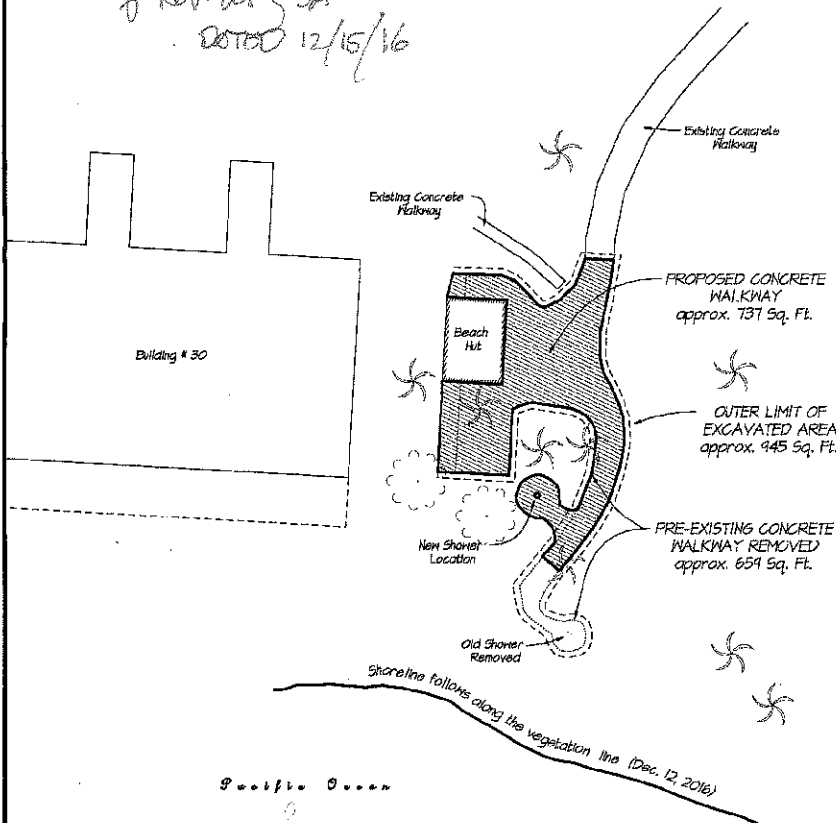
THIS WORK WAS PREPARED
BY ME OR UNDER MY SUPERVISION

PRELIMINARY

Licensed Professional Land Surveyor
Certificate Number 12973-LS



IN RESPONSE TO RQMT A
of NW-10F & SA
DATED 12/15/16



16 DEC 19 2016

RECEIVED

ENLARGEMENT

LEGEND

Solid Line with Hatch - Proposed New Concrete Walkway

Dotted Line - Pre-Existing Concrete Walkway Removed

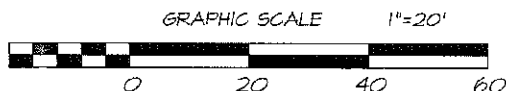
Dashed Line - Outer Limits of Excavation Performed



Heliotrope Tree (2' dm.)



Coconut Tree (1' dm.)



Association of Beachhouse Owners
of Kiahuna Plantation

Erosion Transect Rates
Shoreline fronting KPR

Transect	Smoothed Rate
75	0.90 Phase III
76	1.00 Phase III
77	0.90 Phase III
78	0.90 Phase III
79	0.90 Phase III
80	0.90 Phase II
81	0.90 Phase II
82	0.90 Phase II
83	0.90 Phase II
84	1.00 Phase II
85	1.00 Phase II
86	0.90 Phase I, Phase II
87	0.90 Phase I, Phase II
88	0.80 Phase I, Phase II
89	0.60 Phase I, Phase II
90	0.50 Phase I, Phase II
High	1.00
Median	0.90
Minimum	0.50

Poipu, Kauai, Hawaii



The preparation of this poster was financed in part by the Coastal Zone Management Act of 1972, as amended, authorized by the Office of Ocean and Coastal Resources Management, National Ocean Service, National Oceanic and Atmospheric Administration, United States Department of Commerce, through the Office of Planning, Waikiki, Hawaii.

Charles Fletcher, Matthew Barbee, Siang-Chyn Lim, Julia Brues, Matt Dyer, and Ayesha Genz
University of Hawaii Coastal Geology Group
School of Ocean and Earth Sciences and Technology
1680 East West Road, Honolulu, HI 96822, U.S.A.



Poipu - Smoothed Rates

Positive Rate = Accretion
Negative Rate = Erosion

Transect	Smoothed Rate (ft/yr)
65*	-0.5
66	-0.5
67*	-0.5
68*	-0.4
69*	-0.4
70*	-0.4
71	-0.5
72	-0.6
73	-0.7
74	-0.8
75	-0.9
76	-1.0
77	-0.9
78	-0.9
79	-0.9
80	-0.9
81	-0.9
82	-0.9
83	-0.9
84	-1.0
85	-1.0
86	-0.9
87	-0.9
88	-0.8
89	-0.6
90	-0.5
91	-0.5
92	-0.6
93	-0.8
94	-0.9
95	-0.8
96	-0.6
97	-0.3
98	-0.5
99	-0.4
100	-0.3
101	-0.3
102	-0.2
103	-0.2
104	-0.1
105	-0.1
106	-0.2
107	-0.4
108	-0.7
109	-0.9
110	-1.0

Transect	Smoothed Rate (ft/yr)
111	-1.1
112	-1.1
113	-1.1
114	-0.9
115	-0.6
116	-0.3
117	0.2
118	-0.5
119*	-0.5
120	-0.8
121	-1.0
122	-1.1
123	-1.0

*Imagery indicates beachwidth of zero during period of analysis. Rate calculation reflects data with beach existence.